

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION (L) NO.774 OF 2015**  
**IN**  
**WRIT PETITION (L) NO.3244 OF 2015**

**The Association of International Schools  
in India & Anr. .... Applicants**  
**IN THE MATTER BETWEEN**  
**The Association of International Schools  
in India & Anr. .... Petitioners**  
**V/s**  
**State of Maharashtra & Anr. .... Respondents**

**WITH**  
**WRIT PETITION (L) NO.3244 OF 2015**

**The Association of International Schools  
in India & Anr. .... Petitioners**  
**V/s**  
**State of Maharashtra & Anr. .... Respondents**

**WITH**  
**WRIT PETITION NO.1525 OF 2015**

**Unaided Schools Forum & Ors. .... Petitioners**  
**V/s**  
**The State of Maharashtra .... Respondents**

Mr. Janak Dwarkadas, Senior Advocate with Mr. Navroz Shervai, Senior Advocate with Mr. Prateek Sakseria with Mr. Sahil Kanuga with Ms. Aarushi Jain with Mr. Arjun Gupta i/b M/s. Nishith Desai Associates for Petitioners/Applicants in WP No.3244 of 2015.  
Mr. Piyush Raheja a/w Mr. Vishesh Malviya, Ms. Nikita Mishra i/b M/s. Federal & Rashmikant for Petitioners in W.P. No.1525 of 2015.

**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.2818 OF 2015**  
**WITH**  
**WRIT PETITION NO.4647 OF 2015**  
**WITH**  
**WRIT PETITION NO.4648 OF 2015**

This Order is modified/corrected by Speaking to Minutes Order dated

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**Vibgyor High School** ..... **Petitioner**  
**V/s**  
**State of Maharashtra & Ors.** ..... **Respondents**

**WITH**  
**WRIT PETITION NO.2821 OF 2015**

**Noble Foundation** ..... **Petitioner**  
**V/s**  
**State of Maharashtra & Ors.** ..... **Respondents**

Mr. Navroz Seervai, Senior Counsel, Mr. Prateek Seksaria, Mr. Nivit Srivastava, Mr. Nakul Jain, Mr. Harsh Behany i/b M/s. Maniar Srivastava Associates for Petitioners.

**WITH**  
**WRIT PETITION NO.3777 OF 2015**

**G.G. International School & Anr.** ..... **Petitioners**  
**V/s**  
**State of Maharashtra & Anr.** ..... **Respondents**

Mr. Prateek Seksaria, Mr. Nivit Srivastava, Mr. Nakul Jain, Mr. Harsh Behany i/b M/s. Maniar Srivastava Associates for Petitioners.

**CORAM : ANOOP V. MOHTA &**  
**A.A. SAYED, JJ.**

**DATED : 22 DECEMBER 2015**

**ORDER:**

1 Writ Petition Nos.2818 of 2015, 2821 of 2015, 3777 of 2015, 4647 of 2015 and 4648 of 2015 are not on Board. Taken on Board in view of urgency expressed.

2 Despite earlier orders passed by this Court no detailed Reply is filed by the State dealing with the challenge to the constitutional validity of the Maharashtra Educational Institutions (Regulation of Fee) Act, 2011 (MEIR Act). From the Affidavit dated 18 December 2015 filed on behalf

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of State of Maharashtra, it is clear that the Divisional Fee Regulatory Committee is not yet constituted as per section 7 of the MEIR Act and the draft Rules for carrying out the purposes of the MEIR Act have yet to be placed before each House of the State Legislature. Considering the scheme of the MEIR Act, the constitution of Executive Committee and the meetings of PTA in absence of Rules is not possible. Nor is it possible for Management of the schools to propose fee in absence of such Rules.

3. This Court has passed the order dated 17 February 2015 in Writ Petition No.696 of 2015 as under:

*“Heard.*

*We find on hearing the learned counsel for the petitioner and on a perusal of the impugned communications that an action is initiated against the petitioner trust and the trust is prohibited from charging the fees on the basis of the Government Resolution dated 15.7.2010, the provisions of the Right to Education Act and also the provisions of the Prevention of Capitation Fees Act.*

*We find that the Government Resolution dated 15.7.2010 is set aside by the judgment dated 1.9.2010 in Writ Petition (L) No.1876 of 2010. Also, we prima-facie find that the provisions of Right to Education Act would not apply to the petitioner, which is a minority institution. The Prevention of Capitation Fees Act is brought into force in December, 2014 and the impugned communications cannot be prima-facie based on the provisions of the same. It prima-facie*

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*appears that a parent teacher association could be formed under Section 4(1) of the Maharashtra Act No.VII of 2014 within a period of 30 days of each academic year and since the Act is brought into force in December, 2014, there is no question of forming the parent teacher association as the academic year 2015-16 is yet to commence. Also, the executive committee under Section 4(2) of the Act of 2014 could be constituted only on the formation of the parent teacher association. The Divisional Fee Regulatory Committee, is also not yet constituted.*

*In view of the aforesaid, we stay the impugned communications till the next date of hearing.*

*S.O. after four weeks at the request of the learned Assistant Government Pleader and the counsel for the respondent no.4 for filing reply.”*

4. In order dated 26 March 2015 in Writ Petition Nos.2818 of 2015 and 2821 of 2015 in paragraph nos.5 and 6 this Court has observed as under:

*“5 There is no serious issue that the said Act brought in force with effect from 1.12.2014 by a notification dated 29.11.2014. There are Rules, machineries required be framed and constituted even for dealing with the issue of fee structure of such institution i.e. only if the Petitioner/ institution is governed by this Act. For the formation of Parents Teachers Association, as contemplated in Chapter II referring to Section 4, requires various prior steps to be followed within the prescribed period. Therefore, unless these positions are clear, we see no reason at this stage to*

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*overlook the challenge so raised by the learned counsel appearing for the Petitioners. The power of Respondents basically respondent No.3, to pass such order is also not supported by any provisions and/or Act basically in the background that in the last year also the Petitioners have increased fee structure around 10%. This time, they have increased the same around 9 to 14%. That was done in October 2014 itself as admissions normally start from October 2014. Admittedly, the Act in question came into force from 1.12.2014. There was no such order and/or inquiry made by the Respondents in the last year. Therefore, taking overall view of the matter, we see a case is made out, as the question is of power and jurisdiction of Respondent No.3, to pass such order of staying the recovery of increased fee, at this stage of the academic year. Therefore, we are inclined to grant ad interim relief in terms of prayer (h). Order accordingly.*

6 *However, considering the Parents pending agitation/ complaints and as submitted by the counsel appearing for the respective batch of parents, who orally submitted to intervene in the matters and also submitted that they will file Intervention Applications by 6.4.2015. The Petitioners to file reply and defences to the same. However, in the interest of all and considering the fee structure which covers the first quarter fee to be paid before 31.03.2015 need to be taken care of and the respective parents, at this stage, without prejudice to their rights and contentions, if there is any issue of the respective parents, we are inclined to direct them to deposit the fee amount instead of 31.03.2015, by*

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*15.04.2015. This order will be subject to further modification/clarification after hearing all the concerned.”*

5. It is submitted on behalf of the Petitioners that it is necessary for the schools to declare the fees structure for the academic year 2016-17 in advance so that the parents are aware of the fees that are required to be paid at the time of admission of the students in respective classes.

6. In the circumstances, at this stage, we are inclined to accept the submissions of the learned Senior Counsel for the Petitioners and by way of ad-interim measure we pass the following order:

- i) If so required, the management of the schools may propose and collect the fees for the academic year 2016-17 which would be the fee of the previous academic year plus an amount not exceeding 15% thereof. However, if there has already been an increase last year in academic year 2015-16, the aggregate increase of fees of both the years together shall not exceed 15%.
- ii) It is made clear that this will be without prejudice and subject to further orders of this Court and adjustments, if any.

7. Stand over to 22 January 2016, High on Board.

8. Parties to act on the basis of an authenticated copy of this order.

**(A.A. SAYED, J.)**

**(ANOOP V. MOHTA, J.)**

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